IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4173 OF 2006

Somnath H. Gaikwad .. Applicant

Versus

State of Maharashtra .. Respondent

Mr.U.B.Nighot for applicant

Mr.Rajesh More, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 28th November 2006.

P.C.

. Heard Mr.Nighot for applicant and learned A.P.P. for State.

2. Applicant accused who has been arrested in connection with C.R.No.6 of 2006 registered with Khadki police station alleging offences punishable under section 498A, 302, 307 read with 34 I.P.C., had earlier applied for bail before this Court but the said application was not pressed on merits and came to be withdrawn. This fact is mentioned in the application itself and not disputed by Mr.Nighot.

3. However, the application for enlarging the applicant on bail is once again preferred on the ground that the applicant who is the husband is arrayed as an accused along with his father and other family members. His father was granted anticipatory bail by this Court. Later on father has expired and there are only female members viz., applicant’s mother and widowed sister. Thus, there is nobody to look after applicant’s aged mother and children.

4. Two applications for bail were already rejected by the learned Additional Sessions Judge. Similarly, an application for bail preferred by the applicant before this Court was dismissed as not pressed. In other words, it was withdrawn by the applicant.

5. It would not be proper to now entertain the submissions of Mr.Nighot on merits. That apart, the trial court has rightly held that at this prima facie stage the evidentiary value of the dying declaration of deceased wife of the applicant, cannot be gone into. The other materials including the statement of the neighbours coupled with the dying declaration would make it clear that the applicant is prima facie, guilty of the offence alleged. Offences alleged are serious in nature inasmuch as deceased states in her dying declaration that she was set on fire by the applicant. There is also a reference to the abuses and demands so also

suspicion of applicant about character of deceased. In such circumstances, it would not be proper to entertain this application. Hence, apart from the fact that successive applications are being made and rejected on merits, I see no reason to entertain the present applicant. The so called changed circumstances, do not warrant exercise of discretion in favour of the applicant in the light of materials produced on record.

6. Application is, therefore, dismissed. However, considering that the applicant has been detained from 10th January 2006, learned Trial Judge to endeavour and dispose of the sessions case as expeditiously as possible and within a period of six months from the date of receipt of copy of this order.

(S.C.Dharmadhikari, J)